IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION NO. 2615 OF 2006

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri J.B. Kasat, Advocate for the applicants.
Shri C.N. Adgokar, APP for the respondents.

CORAM : B.R. GAVAI, J.
10TH AUGUST, 2006

By way of present application under Section 482 of Code of Criminal Procedure, the applicants are praying for quashing of criminal complaint. The objection is sought on the ground that the averments which are necessary as required under Section 141 of the Negotiable Instruments Act are lacking in the complaint.

Shri J.B. Kasat, the learned Counsel appearing on behalf of the applicants, submits that it was necessary for the complainant to have averred that the applicants were in charge and responsible for carrying out the affairs of the accused No.1 which is not at all made in the complaint. He further submits that in view of the judgment of the Apex Court in the case of **Monaben Ketanbhai Shah and another .v. State of Gujrat and others (reported in AIR 2004 SC 4274)**, the complaint is liable to be quashed.

Perusal of Section 141 would reveal that what

is necessary to be averred is that the person who is sought to be made as accused was at the time of offence was in charge and responsible for the conduct of the business of the Company.

In paragraph 1, the complainant has averred as such.

> *"That the accused Nos.2 to 5 do the business in partnership with each other under the name and style of accused No.12 and all the accused Nos.2 to 5 are in charge of and responsible for carrying out the affairs of the accused No.1. That the accused Nos.2 to 5 were also the in charge of accused No.1 at the relevant time when the cheque in question was issued to complainant in the circumstances stated below and hence all the accused are liable to be prosecuted for the offence committed by them as stated hereinafter."*

I find that there is sufficient compliance of Section 141 of the said Act.

In that view of the matter, no interference is called for. Hence, rejected.

JUDGE

*rrg.